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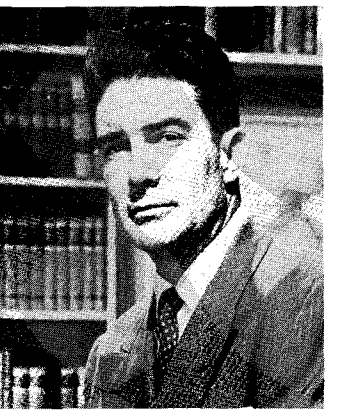

DAN SMOOT

SUPREME COURT'S PRAYER DECISION — PART II
GOD IS NOT PERMISSIBLE BUT OBSCENITY IS

Supreme Court Justice Hugo L. Black wrote the majority opinion for the June 25, 1962, New York School Prayer Case decision in which the Court held that recitation of a non-denominational prayer (by teachers and students, in the public schools of New Hyde Park) is unconstitutional.

In 1936, Mr. Black (then a United States Senator from Alabama), criticizing a Supreme Court decision which was contrary to Franklin D. Roosevelt's wishes, asserted that the Court majority of five men was ruling the nation.[1]

Senator Black, a passionate partisan of the New Deal, fought hard for Roosevelt's "Court-packing" scheme in 1937. The scheme failed, but Roosevelt rewarded Black by appointing him — August 12, 1937 — a Justice of the Supreme Court. Though Black was known as a "leftist radical" — at a time when a reasonably conservative Senate had just defeated Roosevelt's effort to pack the Supreme Court with leftist radicals — the Senate (August 17, 1937) confirmed Black's nomination (as Roosevelt had shrewdly guessed it would) because Black was a "member of the club."[2]

The Supreme Court which Senator Black criticized in 1936 was, in some part, composed of men who tried to adjudicate cases in compliance with the principles and purposes and limitations set out in our Constitution.

The Supreme Court of which Black has been a member since 1937 has become an irresponsible oligarchy arrogating to itself the unconstitutional power to change our Constitution at will, in defiance of its obvious meaning, in defiance of the history and traditions of the nation, and even in defiance of the Court's own precedents.

Hugo L. Black, now the senior member of the Supreme Court, has become a leader of

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the "leftist-radical" Court majority which is perverting the sacred principles on which our society is based — dictating law for 186 million people, in contempt and ignorance of a Constitution which established a Republic of self-governing free men.[3]

The day after Justice Black wrote the majority opinion in the School Prayer Case decision (June 25, 1962), *The New York Times* (June 26) featured a two-column article about Black, heaping praise on him as an "Advocate of Liberty." Lauding Justice Black as an "intellectual leftist liberal," *The New York Times* says:

"Justice Black's greatest emphasis has been on the free speech guarantee in the First Amendment. He argues that this prevents Government from interfering with any kind of talk, even the obscene or the subversive."

But Black's decision in the School Prayer Case holds that school children and teachers violate the First Amendment when they say the Regents Prayer. Here is the liberal concept of liberty: the Constitution permits obscenity and subversion, but prohibits religious ceremony!

Throughout the United States, parents have found (on the "preferred reading" shelves of public school libraries, and even on the "required reading" lists for school children) books containing such language that quotations from them could not be sent through the mails, because of postal regulations against obscene matter.[4] Parents who have made public complaints about this situation have been condemned, by liberals, as "reactionaries," who want to impose a bigoted censorship on the reading of children.

Freedom for Perversion and Subversion

Review of a few scattered cases will illustrate the strange "liberal" concept of liberty — that the Constitution gives unrestrained license to the propagation of obscene and subversive material among school children and others, but prohibits the distribution of Holy Writ or the mention of God.

In the spring of 1955, the Gideon Society arranged to present New Testaments as gifts to children graduating from junior high schools in San Diego, California. The Jewish Community Relations Council and the Anti-Defamation League of B'nai B'rith protested. On May 24, 1955, the District Attorney of San Diego County gave the formal opinion that distributing Bibles on public school property would be unconstitutional.

In 1956, Eleazar Smith was arrested in Los Angeles for possessing in his bookstore an obscene book (on lesbianism). He was tried in Los Angeles Municipal Court and sentenced to 30 days in jail. The conviction was upheld by the Appellate Department of the State Superior Court. Smith appealed to the United States Supreme Court. On December 14, 1959, the Supreme Court reversed Smith's conviction, and struck down the Los Angeles City Ordinance involved.

Associate Justice William O. Douglas said he read the book in question and found it repulsive. Nonetheless, Douglas agreed with the Court majority decision that the conviction of Smith under the Los Angeles City Ordinance violated Smith's rights under the First Amendment's free-press provisions.[5]

On January 28, 1957, the school board of Sierra Madre, California, received a letter from a Jewish couple, objecting to Christmas programs in the public schools. In July, 1957 (after a bitter fight with parents), the School Board outlawed the Nativity Scene and images of Christ and angels, and the singing of Christmas carols in public schools.

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William B. Ball (professor of law at Villanova University) citing the June 25, 1957, Supreme Court decision in *Roth vs. United States* — and other cases in which the high court had permitted the distribution of materials declared obscene by lower federal courts and by Post Office officials — said the Supreme Court is giving,

"...a new immunity to publishers and producers who seek to profit by the spread of filth among children and adolescents."(6)

In September, 1957, the Attorney General of New Jersey ruled that the saying of Grace, aloud or secretly, would not be permitted in public schools.

The September, 1957, issue of *National Republic* reported that the New York State Commissioner of Education upheld the singing of the off-color song, "The Lonesome Train," but outlawed the Ten Commandments in public schools.

Crest is a student publication at Orange Coast College, a tax-supported institution, in Costa Mesa, California. It is published once a year, under the supervision of the faculty. In the first week of June, 1962, the second annual volume of *Crest* was distributed to students and faculty members at the college.

It created consternation among parents, church groups, and citizens generally throughout Orange County. On June 11, 1962, parents bought space for a three-column ad in *The Register* (daily newspaper in Santa Ana) and published an Open Letter to Members of the Orange Coast College Board of Trustees, saying:

"We hope you will diligently study the current literary publication, *Crest*, published by Orange Coast College. It is a collection of modern poems, short stories, and art written and designed by the students under the advisory staff [of three faculty members]: Lawrence J. Lieberman, C. Bruce Piner, and James Mauch.

"Gentlemen, we believe the selections consist of morbid, sadistic, degenerate, and warped mental expressions. . . . We believe the continuation of this type of literature being presented to our students under the guise of modern American culture will only hasten the decay of American principles and morals."

The issue of *Crest* which the parents complained of is disgusting, reflecting little intelligence, talent, or training. Much of the student writing in it is the kind of stuff that naughty little boys write on sidewalks and outhouse walls — and, indeed, reflects little more literacy than one normally finds in such nasty four-letter scrawls.

Faculty advisors Lawrence J. Lieberman and James Mauch defended and praised the student writings, however, saying that all material was carefully screened and that the faculty advisors had "eliminated a number of objectionable pieces."

Dr. Peter Carr, Professor of Creative Writing and Comparative Literature at Long Beach State College, also came to the defense of the student writings in *Crest*. Dr. Carr said:

"I have probably as good a chance as anyone to review the current status of college literary journals.

"*Crest* . . . is perhaps the outstanding periodical among those I have seen this year, and for one primary reason — both the writing talent and the art talent are exceptional."

On June 12, 1962, the Board of Trustees of Orange Coast College announced that they would not censor any of the creative writing in *Crest*.

Dr. Basil H. Peterson, President of Orange Coast College, defended the student writings in *Crest*, and denied that the College could be held responsible for the "philosophy" expressed in those writings. Dr. Peterson said:

"While I would, perhaps, have edited it more carefully from a standpoint of taste, I do feel that this writing is the result of the

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creativity of the students and should stand as such. . . .

"I would say some of the things in the publication do not appeal to me. At the same time, however, the students should have an opportunity to express themselves and should be able to face criticism. . . . You can't teach students anything. They have to teach themselves."[7]

Young people who never go to college, or even to high school, and who spend most of their youth in hangouts which are breeding places of delinquency, manage to "teach themselves" a great deal of what is reflected as learning in the Orange Coast College student magazine. If this fact were widely known among parents — it might render our fabulously expensive system of tax-supported "higher education" superfluous.

On the other hand: on June 21, 1962, Clark Kerr, President of the University of California, submitted, to the Board of Regents of the University, a memorandum which had already been approved by the Educational Policy Committee of the Board of Regents — and by attorneys for the Board. Mr. Kerr's memorandum recommended that religious marriages and religious chapels should be prohibited on the campuses of the University — and that student religious organizations could not use University of California facilities for religious worship service or for religious exercises of any kind.

Board of Regents' attorneys claimed such prohibitions against religion were necessary to avoid raising "serious constitutional questions."[8]

On June 25, 1962, the United States Supreme Court overturned a Post Office Department ruling that a magazine for homosexuals is unmailable because of obscenity. The Court asserted that the First Amendment guarantees the rights of homosexuals to receive such magazines through the mails — and that the magazines are not patently offensive.[9]

On June 25, 1962, the United States Supreme Court struck down a California statute which made addiction to narcotics a crime.[10]

On June 25, 1962, the United States Supreme Court reversed contempt-of-Congress judgements against Louis Hartman of Berkeley, California and Bernard Silber, of New York City. Both had been convicted for refusal, in 1957, to give the House Committee on UnAmerican Activities information about communist infiltration in the communications industry. The Supreme Court reversed their contempt-of-Congress convictions, on the technicality of "faulty indictments."[11]

And on June 25, 1962, the Supreme Court handed down its New York School Prayer Case decision, prohibiting teachers and children from saying a non-denominational prayer in the public schools of New Hyde Park, New York.

Denouncing these June 25 Court decisions in a speech to the House, on June 26, 1962, United States Representative William G. Bray (Republican, Indiana) said:

"Many of my constituents have asked me if the protection of the laws only applies to communists and fellow travelers, to atheists and perverts, and to those who would destroy our society. They wonder why this protection is not more often extended to protect things which are good and decent in our society, encouraging patriotism, spiritual devotion, personal morality, and responsibility."[12]

The grim fact is that the liberals of our time no longer believe in liberty under law: they believe in, and will stop at nothing to achieve, a communist-fascist type of government. In the strange upside-down language and logic of contemporary liberalism, *liberty and justice* mean subjecting the people of the United States to the dictates of a centralized totalitarianism.

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Freedom for the Politburo

When questioned at a press conference about his reaction to the Supreme Court's June 25, 1962, School Prayer decision, President Kennedy did what President Eisenhower did on similar occasions throughout his terms of office: he evaded direct comment about the correctness of the Court's actions — but repeated the absurd cliche of modern liberalism that whatever the Supreme Court decides is "supreme law of the land," which "all of us must obey."

The *all of us* seems to have crept into the cliche to make it palatable. Liberals who hold great power over the people — and who most unctuously lecture the rest of us about obeying the supreme law of the land — often hold *themselves* above the law.

For example, Justice William O. Douglas, in his School Prayer Case decision, holds that any mention of God or religion, by a public official while acting in an official capacity, is unconstitutional and should be forbidden. Yet, in the decision in which he makes this point, Douglas, acting in his official capacity as a Justice of the Supreme Court (quoting himself from a previous official decision), says:

"We are a religious people whose institutions presuppose a supreme being."

If it is unconstitutional (as Douglas says) for a Supreme Court crier to say "God save the United States and this honorable court" — it should be unconstitutional for a Supreme Court Justice to declare in an official decision that our institutions are based on belief in God.

But the communist-fascist philosophy of our leading liberals holds otherwise: members of the ruling politburo are not to be bound by their own edicts — just the proletariat.

With the universal applause of liberals — and in the name of justice and liberty — President Eisenhower, in 1957, violated the Constitution, Statutes of Congress, and some of the basic traditions of our society when he sent troops into Little Rock to enforce, as "supreme law," an illegal edict of the judicial oligarchy. It is obvious that Kennedy would do the same thing if the occasion arose.

It is not at all ludicrous to imagine a battery of United States Marshals or a division of Federal troops marching into a local school house, with weapons ready, to prevent teachers and pupils from praying (if there is a public school anywhere in the land with administrators sturdy enough to defy a court order prohibiting prayer) because, in its decisions on June 25, 1962, the Supreme Court converted into "supreme law" the "liberal" concept that the Constitution gives sacrosanct license to the propagation of obscene and subversive material among school children and others, but prohibits the distribution of Holy Writ or the mention of God.

Mankind has witnessed many phenomena in the twentieth century. These developments (in a nation whose people are religious, and whose institutions are based on belief in God) are among the most startling.

Churchmen Applaud

Equally phenomenal were the reactions of some of the nation's religious leaders to the Supreme Court's anti-religion decision.

Persons and organizations representing the Jewish and Unitarian faiths were in the foreground fighting *for* the Court decision. And officials of major Christian groups joined the Jews and Unitarians in praising the Supreme Court for outlawing religion in the public schools.

Dean M. Kelly, director of the Department of Religious Liberty, of the National Council of Churches (which pretends to represent and speak for some 30 million Christian Protestants in major denominations) praised the

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Supreme Court's New York Prayer Case decision as one which Christians welcome.[13]

On July 8, 1962, Harold E. Fey, editor of the *Christian Century,* (a non-denominational religious weekly, with national distribution among large Protestant denominations) released a statement, signed by 19 leaders in nine Protestant denominations, praising the Supreme Court School Prayer Case decision. Here are the 19 Christian leaders who signed the statement:[14]

***Hampton Adams,* pastor, Park Avenue Christian Church, New York; *Theodore Adams,* pastor, First Baptist Church, Richmond, Va.; *George C. Bonnell,* pastor, Fifth Avenue Presbyterian Church, New York; *Aubrey N. Brown, Jr.,* editor, *Presbyterian Outlook,* Richmond, Va.; *Edwin T. Dahlberg,* pastor, Delmar Baptist Church, St. Louis (former president of the National Council of Churches); *Truman B. Douglas,* board of ministries, United Church of Christ, New York; *Harold E. Fey,* editor, *Christian Century,* Chicago; *A. Raymond Grant,* bishop, Oregon Methodist Area, Portland; *Kyle Haselden,* managing editor, the *Christian Century,* Chicago; *Herschel H. Hobbs,* pastor, First Baptist Church, Oklahoma City; *Frank E. Johnston,* associate general secretary, American Baptist Convention, Valley Forge, Pa.; *Dwight E. Loder,* president, Garrett Theological Seminary, Evanston, Ill.; *Malvin H. Lundeen,* secretary, Lutheran Church in America, Minneapolis, Minn.; *Carlyle Marney,* pastor, Myers Park Baptist Church, Charlotte, N. C.; *Edward O. Miller,* rector, St. George's Episcopal Church, New York; *Samuel Miller,* dean, Harvard University Divinity School, Cambridge, Mass.; *W. Hubert Porter,* associate general secretary, American Baptist Convention, Valley Forge, Pa.; *Richard H. Raines,* bishop, Indiana Methodist Area, Indianapolis, Ind., and *Edwin Tuller,* general secretary, American Baptist Convention, Valley Forge, Pa.**

Just a Beginning

Some apologists for the Supreme Court claim that the Court merely outlawed an officially prescribed prayer in the public schools of New Hyde Park, New York — and that the June 25 decision will not affect voluntary religious services in other schools throughout the land.

Technically, this claim is correct. No other school system (even in the State of New York) has to pay any attention to the Supreme Court's New York Prayer Case decision — until it is also sued for permitting children to pray. Actually, of course, many (probably most) school systems will rush to abolish all religious services among children, in order to "comply with the Supreme Court ruling" before getting sued.

On June 6, 1962, the Florida Supreme Court upheld a Florida law which requires daily Bible reading in all public schools. Leo Pfeffer served as counsel for the Florida parents seeking to outlaw the Bible reading. Leo Pfeffer is general counsel for the American Jewish Congress, which was also prominent in support of the New Hyde Park, New York, parents who sued to outlaw the Regents Prayer. When the Supreme Court outlawed the Regents Prayer in New Hyde Park, Mr. Pfeffer jubilantly expressed certainty that he will now win his Florida case in the U.S. Supreme Court.

Leo Pfeffer said that about 30 percent of all public schools in the United States practice a morning devotional, usually in the form of the Lord's Prayer; that about 20 percent of all public schools require some teaching "about religion," frequently *without sectarian bias;* that about 50 percent of all schools practice Bible reading; and that about 85 percent of all baccalaureate services in the nation's public schools have some religious content. Mr. Pfeffer confidently predicted that *all* such practices — even the *teaching about religion without sectarian bias* — will be outlawed as a result of the Supreme Court's Prayer Case decision on June 25, 1962.[15]

Mr. Pfeffer and the powerful American Jewish Congress he represents are determined

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to use the Supreme Court as a tool to force upon this nation not only the perversion of our Constitution and the abandonment of our spiritual heritage, but also an educational blackout of the most vicious and destructive kind. Mr. Pfeffer and the American Jewish Congress are determined that our children shall not even be taught *about religion.*

Enforcing ignorance of religion upon our children will rob them of civilization. Religion has been the most powerful force in the influencing of thought, in the molding of history, and in the development of all that is worthwhile in man's culture — since the dawn of civilization.

In 1948, Robert H. Jackson, then an associate justice of the Supreme Court, understated the case when he said:

"One can hardly respect a system of education which would leave the student wholly ignorant of the currents of religious thought that move the world society."[16]

The American Civil Liberties Union has worked with the American Jewish Congress to lobby through the Supreme Court such decisions as the School Segregation Case decision of May 17, 1954, and the New York Prayer Case decision of June 25, 1962.

On June 26, 1962, Mr. George E. Rundquist, Executive Director of the New York Civil Liberties Union, triumphantly predicted that the Supreme Court ruling on prayer "will open up a whole new series of court cases," which will "rule out any prayers in public schools," "will affect all religious instruction in the schools," and will have "a tremendous effect all over the country."[17]

On June 26, 1962, Dr. Sterling M. McMurrin, United States Commissioner of Education, also predicted, with approval, that the Supreme Court's New York Prayer Case decision will affect the use of prayers in public schools everywhere.[18]

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The forces which fought for the New York Prayer Case decision on June 25, 1962, are planning to use the decision as a club to force a total blackout of religion in the schools of America — and then to extend the dictum of Justice William O. Douglas to outlaw any mention of God in any public institution.

Part III

Some apologists for the Supreme Court, who claim to regret the New York Prayer Case decision, say that the Court had no option: that the Constitution outlaws any kind of official prayers in public schools and that the Court, therefore, had to hold the way it did.

Next week, by a brief review of pertinent constitutional history and of authoritative commentary on the Constitution, I will show the imbecility of this claim.

FOOTNOTES

(1) Speech of Senator James O. Eastland (Democrat, Mississippi) *Congressional Record,* May 2, 1962, p. 7027
(2) *New York Times,* June 26, 1962, p. C17
(3) On May 2, 1962, Senator James O. Eastland put in the *Congressional Record,* pp. 7026 ff., a chart showing Supreme Court action in 107 cases involving subversive activities. Justice Black supported the position urged by communists 100% of the time; Douglas, 97%; Warren, 95%.
(4) Mrs. Cornelius Smart, No. 7 Liberty Street, Larkspur, California, has written and spoken extensively on "The Marin Story" — detailing her experience, as a parent, in running afoul of postal regulations against "unmailable" matter, when she tried to alert other parents in Marin County, California, with examples of obscene and subversive material in school library books.
The Reverend Ralph E. Wright, Pastor of Corinth Baptist Church, Midland, Texas, is currently having an experience almost identical with that of Mrs. Smart. Trying to expose filth in public school library books (some of which are on the recommended reading list of the National Education Association) Mr. Wright is threatened with prosecution by a United States Attorney if he mails any more such obscenity. Mr. Wright says he has found that this condition exists in the public schools of all 50 states.
(5) *The Tablet,* December 26, 1959
(6) *The Tablet,* February 22, 1958
(7) *The Register,* Santa Ana, California, June 11, 12, 13, 1962
(8) *San Francisco Examiner,* June 22, 1962
(9) Speech of United States Representative Robert L. F. Sikes (Democrat, Florida), *Congressional Record,* June 26, 1962, p. 10944; and speech of United States Representative William G. Bray (Republican, Indiana), *Congressional Record,* June 26, 1962, p. 10948
(10) Speech of William G. Bray, cited in footnote immediately above
(11) *New York Times,* June 26, 1962, p. C17
(12) *Congressional Record,* June 26, 1962, p. 10948
(13) *New York Times,* June 26, 1962, p. C17
(14) "19 Church Leaders Hail Prayer Ruling" — *The Dallas Morning News,* July 12, 1962, p. 9
(15) *New York Times,* June 26, 1962, p. 17
(16) *Christopher News Notes No. 96,* published by The Christophers, 18 East 48th Street, New York 17, New York
(17) *New York Times,* June 26, 1962, pp. 1, 17
(18) *New York Times,* June 26, 1962, p. 17

WHO IS DAN SMOOT?

Dan Smoot was born in Missouri. Reared in Texas, he attended SMU in Dallas, taking BA and MA degrees from that university in 1938 and 1940.

In 1941, he joined the faculty at Harvard as a Teaching Fellow in English, doing graduate work for the degree of Doctor of Philosophy in the field of American Civilization.

In 1942, he took leave of absence from Harvard in order to join the FBI. At the close of the war, he stayed in the FBI, rather than return to Harvard.

He worked as an FBI Agent in all parts of the nation, handling all kinds of assignments. But for three and a half years, he worked exclusively on communist investigations in the industrial midwest. For two years following that, he was on FBI headquarters staff in Washington, as an Administrative Assistant to J. Edgar Hoover.

After nine and a half years in the FBI, Smoot resigned to help start the Facts Forum movement in Dallas. As the radio and television commentator for Facts Forum, Smoot, for almost four years spoke to a national audience giving both sides of great controversial issues.

In July, 1955, he resigned and started his own independent program, in order to give only one side — the side that uses fundamental American principles as a yardstick for measuring all important issues.

If you believe that Dan Smoot is providing effective tools for those who want to think and talk and write on the side of freedom, you can help immensely by subscribing, and encouraging others to subscribe, to *The Dan Smoot Report.*

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